

MDT Civil Rights Bureau

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DBE Supportive Services, Civil Rights Bureau  
Montana Department of Transportation  
PO Box 201001  
Helena, MT 59620-1001



DISADVANTAGED BUSINESS ENTERPRISE  
PARTICIPATION GOAL

Notice is hereby given that the Montana Department of Transportation has submitted to the Montana Division of the Federal Highway Administration (FHWA) for a Disadvantaged Business Enterprise Program Goal of 5.11% (five point eleven percent) for Fiscal Year 2006. MDT expects to meet the DBE goal by achieving 3.83%(75%) via race neutral means and 1.28%(25%) via race conscious means. This application is being filed in compliance with provisions of the Transportation Equity Act for the 21<sup>st</sup> Century, and regulations

published in the Code of Federal Regulations, Section 49, Part 26. Documents in support of this application are available for public examination at the Montana Department of Transportation Headquarters Building, 2701 Prospect Avenue, Helena, MT 59620, during regular business hours in the office of the Civil Rights Bureau until September 16, 2005.

MDT attempts to provide reasonable accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department.

Alternative accessible formats will be provided upon request.

Comments or inquiries  
may be sent to:

Attn: Leslie Wootan  
Civil Rights Bureau, Montana  
Department of Transportation,  
P.O. Box 201001,  
Helena, MT 59620-1001.

Email: [lwootan@mt.gov](mailto:lwootan@mt.gov)



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New MDT  
Web Site

Will be here.....

August 22nd

[www.mdt.mt.gov](http://www.mdt.mt.gov)



“CONTRACTORS”

GO TO

Doing Business

Contracting/Consulting  
with MDT

MDT DBE Goal  
Participation

Information is pulled from MDT's  
2006 DBE Goal Report to FHWA.

Based on actual payment data received  
by MDT DBE Program Office for  
July 1, 2004 to June 30, 2005:

DBE Participation on MDT Projects  
Construction & Consultant 6.37%

Makeup of MDT Projects:  
Construction 93%  
Consultant 7%

MDT Construction Pay Distribution  
Prime Contractor 75%  
Subcontractor 25%

## MONTANA DBE COMPANY MONTHLY UPDATE

### Newly Certified DBE Companies

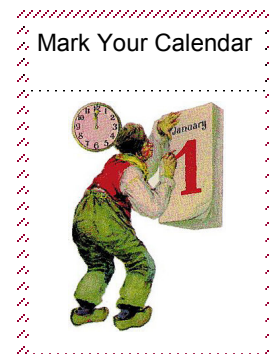
None

### Re-Certified DBE Companies

Air Specialists, Inc.	Billings	MT	Air Analysis/Research/Studies (Tech/Prof) Services NEC
ITS, Inc.	Butte	MT	Medical (Supplier)
Northwest Resource Consultants	Helena	MT	Tech Writing/Editing, Analysis/Research/Studies (Tech/Prof)
Promatech, Inc.	Riverside	NJ	Construction Management Services
Renewable Technologies, Inc.	Butte	MT	Analysis/Research/Studies (Tech/Prof), Professional Services
Tim J. Zimmerman	Hardin	MT	Trucking
Timberline Resources, Inc.	Billings	MT	Biological/Ecological/Environmental (Tech/Prof)

### DBE Companies Withdrawn

Landmark Design                      Salt Lake City   UT



## 16TH ANNUAL EQUIPMENT OPERATOR TRAINING WORKSHOP AND SNOW RODEO September 7- 8, 2005—Great Falls, MT

Hands-on operational training on snowplow, front-end loader, motor grader, and backhoe plus learn to read grade stakes and safety training on avoiding the accident.

Only \$40 for training on first day. Call the

Local Technical Assistance Program at 800-541-6671 for more information or to register.

Brochure is available at MDT DBE Supportive Services Office.

## EMPLOYEES' FRINGE BENEFITS PLAN

### REMINDER—Highway Contractors Currently Working on MDT Projects

Remember, if you are paying your fringe benefits into a trust fund or some other type of plan on behalf of your employees; you must identify that trust fund or plan in the comments box on the Statement of Compliance submitted with every

federal-aid payroll.

In the event that Civil Rights Bureau staff is not familiar with your trust fund or plan you may receive a Certification Form to be completed. The intent of this form is for your firm to certify that your trust fund or plan meets all of the requirements prescribed by 29 Code of Federal Regulations Part 5.26 through Part 5.28. If you

receive the Certification form, you will need to complete the form and return to the Civil Rights Bureau within 10 working days of receipt.

If you have any questions, feel free to contact Vicky Koch at 444-6335 or Jim Phillips at 444-6045. They can also be reached at the following TTY numbers (406) 444-7695 or 1-800 335-7592.



Submit Your  
Bona Fide  
Benefit Plan  
Notices To  
Civil Rights Bureau

## MORE MT CONTRACTING OPPORTUNITIES

### MT Dept of Transportation Projects

**307600**, Rock Creek Truck Parking Area Maintenance, Bid Due Date: August 23, 2005

**307602**, Alberton Truck Parking Area Maintenance, Bid Due Date: August 23, 2005

**307630**, Geotechnical Drilling, Flathead River Bridge East of Kalispell, Bid Due Date: August 12, 2005

**307608**, Lawn Fertilization & Weed Control Billings District, Bid Due Date: August 24, 2005

**065060CSW**, Seeding Growing Contract, MT Dept of Natural Resources and Conservation, Bid Due Date: August 30, 2005 <http://www.discoveringmontana.com/doa/gsd/osbs/default.asp>

**Parking Lot Repainting Project, RFQ-10-05-055-JWB**, Presolicitation, Bid Due Date: August 30, 2005, Indian Health Service, Billings Area Office, Repaint the parking lot and helipad at the Northern Cheyenne Health Center in Lame Deer, Montana. The solicitation will be available August 15, 2005, Jay Windyboy, 406-247-7064, 406-247-708 or [Jay.windyboy@mail.ihs.gov](mailto:Jay.windyboy@mail.ihs.gov) <http://www2.eps.gov/spg/HHS/IHS/IHS-BILLINGS/RFQ%2D10%2D05%2D055%2DJWB/listing.html>

**Moose & Spotted Beetle Road Decommissioning, AG-0385-S-05-0010**, Presolicitation, Bid Due: September 8, 2005, Flathead National Forest, Kalispell, Reclamation of 15 miles on several roads-construction of earth berms, removal of culverts, stream restoration, and seeding/fertilizing. Solicitation will be available August 10, 2005. Pre-bid meeting is August 19, 2005. Barbara Venturini, 406-758-5318, [bventurini@fs.fed.us](mailto:bventurini@fs.fed.us) <http://www2.eps.gov/spg/USDA/FS/0385/AG%2D0385%2DS%2D05%2D0010/listing.html>

**Pipeline Extension, ESQ050114**, Presolicitation, Bid Due: September 5, 2005, BLM Montana, Billings, MT, Construct two livestock pipeline extensions on BLM property in Choteau County. The solicitation will be available August 15, 2005. Tommy Carillo, 406-896-5210, <http://www2.eps.gov/spg/DOI/BLM/MT/ESQ050114/listing.html>

**Targhee Pass – Continental Divide Trail, AG-0398-S-05-0012**, Bid Due: August 23, 2005, Gallatin National Forest, Bozeman, Relocate 5.6miles of trail close to West Yellowstone. William Pfeifer, 406-587-6760, [bpfeifer@fs.fed.us](mailto:bpfeifer@fs.fed.us) <http://www2.eps.gov/spg/USDA/FS/0398/AG%2D0398%2DS%2D05%2D0012/listing.html>

**Belt Creek Office Asbestos Abatement & Renovation**, Presolicitation, Bid Due Date: October 1, 2005, Lewis & Clark National Forest, Great Falls, MT, Includes new ceiling, light fixtures, new carpet and insulation. Jay Wenaas, 406-791-7717, <http://www2.eps.gov/spg/USDA/FS/03K0/R1%2D15%2D05%2D14/listing.html>

**Phalen Fences 2005, Presolicitation, ESQ050038**, Bid Due Date: August 26, 2005, BLM Office, Billings, MT, Construct 1712 rods of 3-wire barbed wire in Custer County, MT. Site tour is August 17, 2005. Charlene Gunther, 406-896-5195, <http://www2.eps.gov/spg/DOI/BLM/MT/ESQ050038/listing.html>

**Upper/Lower River Road Water and Sewer Improvements**, Great Falls, MT, Bid Due Date: August 18, 2005, Installing a new sewer collection system. City of Great Falls

**Fairy Lake Accessible Trail #500, AG-0398-05-0013**, Bid Due Date: August 26, 2005, Clearing/grubbing extra width excavation, Gallatin National Forest, 406-587-6760.

**Rehabilitate St. Mary Sewer System, I1435050162**, Bid Due Date: August 25, 2005, Complete rehabilitation of existing lift station and place pipe. Glacier National Park, West Glacier, MT, National Park Service, 406-888-7870, Neil Brewster.

**MDT Equipment Storage Building, 2005-0971**, Location of Project is Lima. Bid Due Date: August 18, 2005, Pre-Bid walk through is August 9<sup>th</sup>. Crossman Whitney Griffin Architects, 406-443-2340.



## INVITATION FOR BIDS LETTING OF AUGUST 18, 2005

(INCLUDES PROJECTS ADVERTISED FOR JULY)

Sealed bids for construction of this project will be received by the Montana Department of Transportation-Highway Division, Contract Plans Bureau, Room 101, 2701 Prospect, Helena, Montana until **8:00 a.m. on August 18, 2005 and from 8:00 a.m. to 9:00 a.m. in the Empire Builder Room of the Great Northern Best Western Hotel, 835 Great Northern Blvd.** in Helena, Montana, with the bids being publicly opened and read thereafter at 10:00 a.m. in the Empire Builder Room.

1. **NASHUA—EAST & WEST—NH 1-9(39)555—** Pavement pulverization, grading, gravel, PMBS, seal & cover, bridge replacements, guardrail, lighting, drainage, fencing and striping. MANDATORY PRE-BID CONFERENCE. The Disadvantaged Business Enterprises' contract goals are 2.5%.
2. **PIPESTONE-WHITEHALL—IM 90-5(61)240—** Cold milling, digouts, plant mix bituminous surfacing, guardrail and striping. The Disadvantaged Business Enterprises' contract goals are 2.5%.
3. **WEST LAUREL INTERCHANGE—IM-STPHS 90-8(154)433—PULLED**
4. **BNRR OVERPASS—TOLUCA—BR 9002(27) -** Bridge replacement with an 87-meter prestressed concrete beam structure and approach road work. The Disadvantaged Business Enterprises' contract goals are 0.0%.
5. **2002—FENCING—NE OF CRAIG—STPHS 15-4 (106)239—**Installation of wildlife fencing on the 2002-Fencing-NE of Craig project in Cascade and Lewis & Clark Counties along Interstate 14. The Disadvantaged Business Enterprises' contract goals are 0.0%.
6. **BIGHORN RIVER—HARDIN—BR 384-1(12)0—** 180 meter composite steel and concrete girder structure, grading, gravel surfacing, plant mix bituminous surfacing. The project is entirely within the Crow Indian Reservation. MANDATORY PRE-BID CONFERENCE. The Disadvantaged Business Enterprises' contract goals are 2.0%.
7. **INTERSECTION IMPVT-ST REGIS—STPP-STPHS-STPE 35-1(10)0—**Rehabilitation of the intersection of Montana Highway 135 and US Highway 10 on the Intersection Improvement—St Regis project. The Disadvantaged Business Enterprises' contract goals are 0.0%.
8. **2002 GUARDRAIL-NE OF BOZEMAN—STPHS 86-1(31)19—**Guardrail, grading, gravel and revegetation on the 2002 Guardrail-NE of Bozeman project on Secondary 86 in Gallatin County. The Disadvantaged Business Enterprises' contract goals are 0.0%.
9. **STPS 323-1(24)25—40 KM S of EKALAKA –S (PHASE II) -** Grading and gravel surfacing of approximately 20.3 kilometers of the 40 km South of Ekalaka-south. MANDATORY PRE-BID CONFERENCE.. The Disadvantaged Business Enterprises' contract goals are 0.0%.

### Bozeman Bear Canyon/Retrofit Seismic Project

Sletten Construction—Prime Contractor

MDT Staff—Shane Watson, Chuck Durkin, Rickie Johnson, Project Manager

DBE Supportive Services —Rebecca Johnson

HL Construction - Supervisor Kim Proctor



## DBE COMPANY - SPOTLIGHT

**Looking Glass Printing, Inc.** is a Montana-based, family-owned business. Brothers Rod and Robin Christopherson jointly own the business. The brothers are members of the Little Shell Tribe of Chippewa and grew up in Havre. Rod heads up sales and marketing; while Robin oversees production/manufacturing. The business was started in May of 2004 and is located in Florence, Montana. Rod and Robin have been in the business for more than 20 years. There are four full-time employees plus 4-5 part-time employees currently working at Looking Glass.

Ravalli County has been a friendly place for a small business to begin and grow. Looking Glass distributes their products to the northwest states of Washington, Idaho, Montana as well as to Arizona, Utah, Nevada and now into Canada.

Being in the business for many years helped start this business with an established customer base. They were fortunate to find a niche with microbreweries that were paying high freight costs to get their glass products

from out of state businesses.

Currently, the business is growing so fast they are running out of space. They are looking to expand their facility to three times the size of the current building.

Looking Glass receives many compliments from their customers for the service they provide. Their customers like the face-to-face contact with a business in Montana.

Looking Glass has a large customer base of microbreweries which they screen print glass and labels for in Montana and other states.

Go to their web site at [www.lookingglassprinting.com](http://www.lookingglassprinting.com)

for full description of products/ services and price/order information.

**Looking Glass Printing, Inc.**  
465 Hidden Valley Road South  
Florence, MT 59833  
406-273-4638

[lookingglassprinting@msn.com](mailto:lookingglassprinting@msn.com)



### Safety Vests

With Company Logo  
ANSI Class 2 Safety  
Vest, zipper closure,  
breathable mesh with  
inside and outside  
pockets



### Stake Chasers

In Orange, Pink,  
Yellow and Red.

**Products include:** Safety Vests, Stake Chasers, Safety T-Shirts, Grizzly and Montana Logo Wear and Mugs, Screen Printing and Embroidery of Clothing with Company Logos, Screen Printing of Mugs and Glass; and Promotional Items such as Water Bottles, T-Shirts, Jackets (some shown below).





## SUMMARY OF EMPLOYEE OR INDEPENDENT CONTRACTOR EXPERT PANEL DISCUSSION ON JUNE 23, 2005

### Guest Speakers

**Sharon Peterson**—MT Dept of Labor & Industry Employment Relations Division (444-9585)

**Larry Jones**, Legal Counsel, Liberty Northwest Insurance Company (543-2420)

**Curt Larsen**, Legal Counsel, Montana State Fund (444-7772)



**Senate Bill 108** was effective April 28, 2005, states an Independent Contractor (IC) has waived all rights and benefits under the Workers' Compensation Act and the Occupational Disease Act of Montana. Independent Contractor is defined as free from control and direction, and has their own independently established business. IC exemption certificate is for individual businesses not corporations or partnerships. You must pay \$125 fee, submit application affidavit, submit waiver affidavit, and submit supporting documents.

If you are an Independent Contractor, you should go through the process of getting the current IC exemption. Some prime contractors are requiring the proof of the new IC exemption.

**Penalties up to \$1,000 can now be levied against hiring agents and/or workers.** The IC office is creating 6 more positions to assist with compliance.

Certificate is for specific work type for Independent Contractor. It is planned to

have a link on the independent contractor web site to the actual IC Exemption certificate so you can go online and verify IC status.

If a subcontractor hires a subcontractor and both have IC exemption but the 2<sup>nd</sup> tier subcontractor hires an employee who doesn't have workers' compensation. With the exemption, the subcontractors themselves have no rights to workers' compensation benefits. However, the employee of the 2<sup>nd</sup> tier subcontractor does have rights to workers' compensation and both subcontractors and prime contractor would be liable for this coverage and responsible for medical expenses and wages to the worker if injured.

Employers are obligated to ensure the workers they hire as ICs truly are ICs. A way to destroy a good hiring agent/IC relationship is for the hiring agent to exert or have the right to exert control over the worker. It will then become an employer/employee relationship. By law, a worker cannot sign away their rights to workers' compensation or unemployment insurance coverage. The worker must meet the independent contractor criteria. The Montana Supreme Court has stated the following four factors are indicators of control in a working relationship:

1. Evidence of control including the right to control.
2. The furnishing of equipment.
3. The method of payment.
4. The right to fire without liability.

All four factors need to be met by the contractor to ensure they are an independent contractor.

Here are some common things to consider who has control (hiring agent or contractor):

- Payment is on time basis rather than on a bid or project completion basis.
- The pay is determined by the hiring

agent.

- The hiring agent provides substantial tools and equipment necessary to perform the job functions.
- The hiring agent oversees how the work is performed as opposed to the worker completing the project in the manner and means they see appropriate.
- The hiring agent explains, shows, and/or trains the worker how to perform the job.
- The hiring agent can release the worker from the job without notice.
- When there is no opportunity for profit or loss for the worker, they do not have control.
- The hiring agent requires the worker to log the time worked on a job as an indication they have control.

The Department recommends the following when hiring an independent contractor:

- Have a written contract containing who, what, when, where, and how.
- Hire for a defined project with a beginning and ending date.
- Hire those who are experts at their work.
- Do not train or provide essential equipment or materials.
- Do not pay on a time basis (by the hour).
- Ask for proof of general liability insurance.
- Ask for proof of ICEC and verify good standing of IC.
- Obtain references.
- Choose to hire only those who carry workers' compensation insurance on themselves.

The web site is [www.mtcontractor.com](http://www.mtcontractor.com) then click on Independent Contractor. You will find 15 point IC Criteria, Sample MOU, Registered IC List with new IC certifications, IC requirements, and Forms.

## DBE RULE CLARIFICATION

### Substitution Rule.....

This rule applies to all contracted work for Montana Department of Transportation federal-aid projects, both construction and consulting.

First of all, before pursuing substitution of a DBE company's contracted work, prime contractors and engineering firms are encouraged to work with the DBE company to find a solution so the DBE company can complete the contracted work.

If no solution is possible; the prime must follow the Substitution Rule as stated below:

- The prime contractor must submit a written request to MDT DBE Program Manager via the MDT Project Manager explaining why a substitution is required.
- The written request must include:
  - ✓ A signed letter from DBE requesting release from all or part of its contract with specific reasons. MDT may consider the request without a DBE's release request.
  - ✓ The reasons why a DBE needs to be replaced.
  - ✓ The Good Faith Efforts used by the prime contractor to identify another DBE to complete this work. A list of DBE substitutes available and willing to complete the work.

- The DBE Program Manager will make the final determination. The prime will be notified in writing of the decision. The decision is final with no right of appeal.
- The prime contractor may be allowed to substitute other contract work not previously contracted to DBEs for possible substitution consideration.
- If a contractor eliminates, reduces or attempts to eliminate or reduce a DBEs contracted work without the consent of MDT, sanctions may be imposed.

More detailed information regarding the DBE Substitution Rule can be found in the DBE Program Manual on MDT's web site at [www.mdt.mt.gov](http://www.mdt.mt.gov)

Prime contractors or prime engineering firms should take caution when contracting work to a DBE company knowing the DBE company is unable to complete this specific work and the work will therefore be subcontracted. Be aware that if the DBE company is not certified in this work type, it will not count as DBE participation towards a project-specific goal. If the DBE company is certified in this work type but subcontracting the work to a non-DBE company, it will also not count as DBE participation towards a project-specific goal.

Please contact Leslie Wootan, DBE Program Manager at 406-444-6337 or [lwootan@mt.gov](mailto:lwootan@mt.gov) with further questions.

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Knowledge  
is power,  
  
Power  
is knowledge.....

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### Quote of the Month

"Planning is a real waste of time.... for those who waste time." --

Doug Firebaugh



## MONTANA DBE SUPPORTIVE SERVICES PROGRAM SURVEY RESULTS

Recently, fifty-two (52) DBE companies completed a survey. Here is a summary of the results:

**1. Rating of overall services provided by DBE Supportive Services:**

29 – Very Good      21 – Good      2 – Neither Good nor Bad

**2. Do you read the newsletter?**      50–Yes    2–No

**3. Other information you would like in the newsletter:**

Contract opportunities	DBE % used on projects
Health insurance legislation	More consultant-related articles
Insurance	Project budget tracking helpful hints

**4. Have you attended training sponsored by DBE Supportive Services?**    33–Yes    21–No

**5. Training ideas that will benefit your business:**

Employee liability	Business trends/market positioning	FAR audit
Budget tracking	Financial statements	Marketing
Work harassment	BMPs MDT likes to use	Safety
Prof engineering CE	Management and business finances	Negotiating
Human resource training	Qualified consultant for agencies	Plans reading
Web site development	Supervisory training	SqFt training
Wetland delineation	Communication skills with primes	Training via webinar
How to get work with MDT	Motivating/managing employees	

**6. Does the reimbursement program help your business?**    44–Yes    6–No

**Rating Service for Benefiting Your Business:**

	<u>Very Good</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Very Poor</u>
DBE Newsletter	22	18	11	1	0
DBE Reimbursement	32	11	5	1	0
Training/Workshops	10	26	10	2	0
Relevancy of Services to Your Business	10	17	13	3	1
One-on-One Assistance	25	12	10	1	0
Helpfulness of Office	37	11	3	1	0
Timeliness of Customer Service	33	15	2	1	0
Knowledge of Office Staff to Provide Assistance	32	14	5	1	0

**8. What assistance could DBE Supportive Services provide your business?**

Marketing	Financial Management	Personnel Management
Business Operations	Industry-Related	Estimating

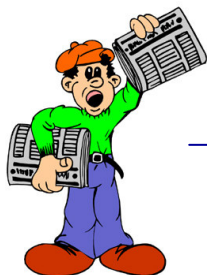
**9. Other Comments:**

Many compliments on the service DBE Supportive Services provided.

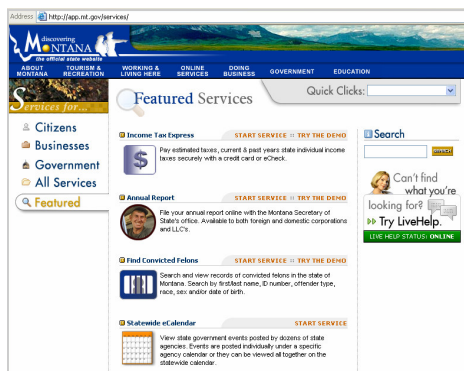
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*“Your input  
is essential to  
the growth  
of the DBE  
Program”*

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**ON-LINE  
SERVICES  
AT YOUR  
FINGER TIPS.....**



**State of Montana Web Site:  
Online Services and  
Business Hub**

<http://app.mt.gov/services/>

The web site is very useful and can assist your business with the following online services:

- Income Tax Express
- ✓ Pay current and past years state individual income taxes
- ✓ Pay estimated taxes
- Find Convicted Felons
- Annual Report—File your annual report online for domestic corporations and LLC's.
- Statewide Calendar—View state government-sponsored events and training.
- Unemployment Insurance—

File a claim for unemployment insurance. You can also review your current claims.

- Look up Landownership Information or look at property maps

Click on “Businesses” link on left side of page and you can:

- Search for a registered Montana business
- Search for available commercial real estate
- Search for driving records
- Perform a title, lien and registration search
- Pay your business taxes
- Pay your withholding taxes
- Pay your corporation license tax
- Renew your professional license

## SITE OF WORK CLARIFICATION

**Definition of  
“Site of Work”**

The CFR states, “....”job headquarters, tool yards, batch plants, borrow pits are part of the site of work provided they are dedicated exclusively or nearly so, to performance of the contract or project and provided they are adjacent or virtually adjacent to the site of work....” “.....tool yards, batch plants, borrow pits which are established by a supplier of materials for the project before opening of bids and not

on the site of work are not included in the site of work.....”

**Example:** The pit is a virgin pit that was established after the project was awarded and it is being used exclusively for our federal-aid project. That pit is located 2 miles away from the actual construction.

Since it is a virgin pit established for use on our project, even though it is not virtually adjacent to the

construction site, the pit and the haul are considered covered work. The difference in this case is because the pit is “a virgin” established specifically for this project.

In order for it to be a non-covered pit, it would have had to be in existence prior to bid letting (with a history) and not virtually adjacent. Both prongs of the definition must be in place for it to be non-covered.